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October 3, 2006

Via Fax and U.S. Regular Mail

The Honorable Denny Chin
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007-9998

Re: *Guimaraes v. Speiser Krause*
Case No.: 05-CV-2210(DC)

Dear Judge Chin:

On September 14, 2006, Plaintiff filed a Motion to Strike Defendant's Reply in Support of Motion to Amend Answer. However, counsel for Defendant has brought to our attention the fact that Plaintiff did not comply with section 2.A. of your Honor's Individual Practices, which requires a pre-motion conference with the Court before making a non-discovery motion. Accordingly, Plaintiff hereby withdraws the Motion to Strike and hereby submits its request for pre-motion conference regarding same.

On August 25, 2006, Plaintiff timely filed and served its Response in Opposition to Defendant's Motion to Amend Answer and Incorporated Memorandum of Law. Local Rule 6.1 provides:

(b) On all civil motions, petitions, applications, and exceptions other than those described in Rule 6.1(a), and other than petitions for writs of habeas corpus ... (3) any reply affidavits and memoranda of law shall be served within five business days after service of the answering papers.

MEMO ENDORSED

It may file his
motion to strike without
a pre-motion conference.
The requirement of a
pre-motion conference is
waived.

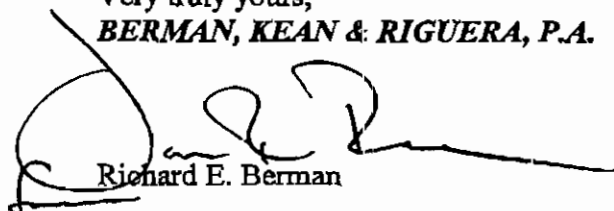
SO ORDERED.
[Signature]
USDC 10/4/06

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Accordingly, Defendant's Reply was due by no later than September 1, 2006. However, Speiser Krause filed its Reply on September 11, 2006. Furthermore, Speiser Krause did not seek or obtain an extension of time to file its Reply beyond the deadline. Based on the foregoing, the Court should disregard the Reply as untimely pursuant to Local Rule 6.1. See *In re United States Lines, Inc.*, 2006 WL 1559237 (S.D.N.Y. June 7, 2006), citing *Chieco v. International Brotherhood of Teamsters*, 175 F.R.D. 467, 469 (S.D.N.Y. 1997)(court refused to consider supplemental memorandum that was not timely filed); *Investor's Guaranty Fund, Ltd. V. Morgan Stanley & Co., Inc.*, 1996 WL 906577 (S.D.N.Y. Dec. 29, 1998)(motion to supplement record denied as untimely under Local Rule 6.1(b)).

Thank you for your consideration in this matter.

Very truly yours,
BERMAN, KEAN & RIGUERA, P.A.



Richard E. Berman

REB/jrr

cc: William J. Apuzzo, Esq. (Via Fax and U.S. Mail)

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